

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

DENNIS RICE and HAROLD MACARIOLA,  
individually and on behalf of all others similarly  
situated,

Consolidated Plaintiffs,

v.

DOLLAR THRIFTY AUTOMOTIVE GROUP,  
INC., THOMAS P. CAPO, MARY ANN N.  
KELLER, EDWARD C. LUMLEY, RICHARD  
W. NEU, JOHN C. POPE, SCOTT L.  
THOMPSON, HDTMS, INC., HERTZ  
GLOBAL HOLDINGS, INC.,

Defendants.

Case No. 10-CV-294-CVE-FHM  
BASE FILE

Consolidated with  
Case No. 10-CV-311-CVE-FHM

**DEFENDANTS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL BRIEF IN  
OPPOSITION TO PLAINTIFF'S MOTION TO APPOINT LEADERSHIP STRUCTURE**

Defendants DOLLAR THRIFTY AUTOMOTIVE GROUP, INC. ("DOLLAR") and the individual Defendants ("DOLLAR DIRECTORS") submit this Application to File Supplemental Brief in Opposition to Plaintiff's Motion to Appoint Leadership Structure (Dkt #7), which was filed on May 27, 2010. In support of said Application, Defendants allege and state:

1. Defendants filed their original Opposition to Appointment of a Leadership Structure (Dkt # 18) on June 4, 2010.
2. Plaintiffs filed a Joint Amended Class Action Complaint (Dkt # 32) on June 11, 2010, adding claims under the Securities Exchange Act of 1934 ("Exchange Act").

3. Plaintiffs filed their Reply in Further Support of its Motion for Appointment of Leadership Structure (Dkt #36) on June 18, 2010, after the filing of the Joint Amended Class Action Complaint.
4. The Joint Amended Class Action Complaint, which for the first time alleged claims under the Exchange Act (*See* Counts I-II JAC ¶¶ 124-136), totally changes the legal landscape concerning the appointment of lead plaintiffs and lead counsel, both procedurally and substantively, as a result of the application of the Private Securities Litigation Reform Act (“PSLRA”) to this case. The PSLRA is now applicable because the Joint Amended Class Action purports to assert claims under the Exchange Act on behalf of a class. (*See* 15 U.S.C. §77z-1 and §78u-4.)
5. Among other things, the PSLRA requires the filing of a certification by the named plaintiff, the publication of a notice to the putative class, and focuses on the appointment of an adequate lead *plaintiff*, with the appointed lead plaintiff (“subject to the approval of the court”) selecting lead counsel. *Id.* at §77z-1(a)(3)(B)(v) and §78u-4(a)(3)(B)(v).
6. Thus, the Motion to Appoint Leadership Structure is now moot as the process for appointing a Lead Plaintiff and Lead Counsel is now governed by the PSLRA. As such, if not promptly withdrawn, it should be stricken. Further, Plaintiffs must now proceed pursuant to the PSLRA. To this point, Plaintiffs have not satisfied any requirement of the PSLRA.

WHEREFORE, premises considered, Defendants pray for an Order granting them leave to file a Supplemental Brief in Opposition to the Appointment of a Leadership Structure, due to the fact that there has been no briefing regarding the requirements of the PLSRA (*i.e.*,

Defendants having filed their opposition brief prior to the filing of the Joint Amended Class Action Complaint, which for the first time made the PSLRA applicable to this case), or, alternatively, Plaintiffs should be ordered to show cause why their Motion for Appointment of Leadership Structure should not be stricken for failure to comply with the requirements of the PSLRA.

Respectfully submitted,

s/ Gerald Hilsher

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### **CERTIFICATE OF SERVICE**

I hereby certify that on June 23, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants (names only are sufficient):

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I hereby certify that on June 23, 2010, I served the attached document by mail, on the following, who are not registered participants of the ECF System:

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